

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF LANCASTER COUNTY, NEBRASKA

IN THE MATTER OF INSTITUTING)	
EMINENT DOMAIN PROCEEDINGS)	RESOLUTION NO. <u>R-16-0075</u>
Project No. C55-G-407(2))	
Tract No. 1)	

WHEREAS, pursuant to the laws of the State of Nebraska, the County of Lancaster is charged with the duty of constructing, maintaining and improving county roads and bridges within the county, and is authorized to exercise the power of eminent domain in conjunction with its performance of such duties;

WHEREAS, the County has concluded that it is necessary for the safety and convenience of the traveling public to conduct the North 27th Street Grading Project, from approximately one-half mile south of Bluff Road to Waverly Road;

WHEREAS, certain right-of-way, more particularly described and shown in Exhibits A and B, attached hereto and hereby incorporated by this reference, must be acquired in order to conduct the North 27th Street Grading Project, from approximately one-half mile south of Bluff Road to Waverly Road;

WHEREAS, the County has contacted Gary L. Kuck and Susan J. Kuck, general partners, on behalf of Kuck Investment Partners, LP, record owner of said property, and the County has made good faith offers to purchase from Kuck Investment Partners, LP, the needed right-of-way shown and described in Exhibits A and B, attached hereto; and

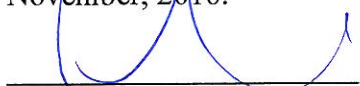
WHEREAS, the County has made reasonable efforts to induce said individual to accept its offers, as shown in Summaries of Contacts attached as Exhibit C, but has been unable to reach an agreement to purchase said property;

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of




Lancaster County, Nebraska, that eminent domain proceedings be instituted in the County Court of Lancaster County, Nebraska, in order to acquire the needed right-of-way shown and described on Exhibits A and B, attached, from the above-named party.

DATED this 15 of November, 2016, at the County-City Building, Lincoln, Lancaster County, Nebraska.

APPROVED AS TO FORM
this 15 day of
November, 2016.


Deputy County Attorney
for JOE KELLY
Lancaster County Attorney

BY THE BOARD OF COUNTY
COMMISSIONERS OF LANCASTER
COUNTY, NEBRASKA

Avery Voted Nay

Hudkins voted nay

STA. 52+98.90 N.E. COR., S.E. 1/4
SEC. 24, T. 11 N., R. 6 E.

52+99.14
60' LT. E
52+99.03
33' LT. E



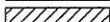
SECTION LINE

TRACT 1
KUCK INVESTMENT PARTNERS, L.P.
LOT 20 I.T., S.E. 1/4, SEC.
24-T11N-R6E



SHEET 1 OF 1

LEGEND

COUNTY OWNED R.O.W.		
STAT. EASE. R.O.W.		2.02 AC.
NEW R.O.W.		0.87 AC.

39+00.58
33' LT. E
39+00.58
60' LT. E

N. 27TH ST.

26+34.99
33' LT. E
STA. 26+34.74 S.E. COR.
SEC. 24, T. 11 N., R. 6 E.

SKETCH SHOWING
RIGHT OF WAY
TO BE ACQUIRED FROM LAND OWNED BY:
KUCK INVESTMENT PARTNERS, L.P.

TRACT NO. 1
PROJECT NO. C55-G-407(2)

LANCASTER COUNTY ENGR. DEPT.
LINCOLN, NEBRASKA

EXHIBIT

A

1 page

tabbles

Project No. C55-G-407 (2)
Owner: Kuck Investment Partners, LP
Location: North 27th Street (Arbor Rd. – Waverly Rd.)
Lancaster County, NE
Tract No.: 1

Fee Simple as Measured by Stationing and Offsets from Project Section line

From Sta. 26+34.99	To Sta. 39+00.58	a strip 33 ft. wide	Left side
From Sta. 39+00.58	To Sta. 39+00.58	a strip 33 - 60 ft. wide	Left side
From Sta. 39+00.58	To Sta. 52+99.14	a strip 60 ft. wide	Left side

Legal Description of Warranty Deed for part taken

A part of Lot 20, Irregular Tracts, located in the SE ¼, of Section 24, Township 11 North, Range 6 East of the 6th Principal Meridian, Lancaster County, Nebraska, more particularly described as follows:

Beginning at the northeast corner of said SE ¼; thence North 89 Degrees, 27 Minutes, 48 Seconds West, with the north line of said SE ¼, a distance of 60.00 feet to a point; thence South 00 Degrees, 20 Minutes, 15 Seconds West, 60.00 feet west of and parallel with the east line of said SE ¼, a distance of 1398.53 feet to a point of intersection with the right-of-way as conveyed and recorded in Instrument No. 92-9059, as filed with the Lancaster County Register of Deeds Office; thence South 89 Degrees, 39 Minutes, 45 Seconds East, with said existing right-of-way line, perpendicular to the east line of said SE ¼, a distance of 27.00 feet to a point, said point being located 33.00 feet west of as measured perpendicular to the east line of said SE ¼; thence South 00 Degrees, 20 Minutes, 15 Seconds West, 33.00 feet west of and parallel with the east line of said SE ¼, a distance of 1265.59 feet to a point of intersection with the south line of said SE ¼; thence South 89 Degrees, 14 Minutes, 09 Seconds East, with the south line of said SE ¼, a distance of 33.00 feet to a point of intersection with the east line of said SE ¼; thence North 00 Degrees, 20 Minutes, 15 Seconds East, with the east line of said SE ¼, a distance of 2664.16 feet to the point of beginning.

Containing 2.89 acres, more or less, of which 2.02 acres, more or less, is existing county road right of way, making a net additional right of way of 0.87 acres, more or less.



LANCASTER COUNTY ENGINEERING DEPARTMENT

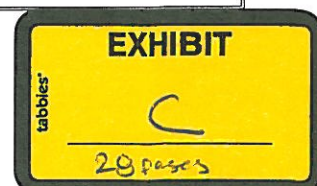
AGENT ACTIVITY REPORT

OWNER: Kuck, Gary L. & Susan J.
ADDRESS: 692 W. Lakeshore Ct. Lincoln, NE 68528
HOME PHONE:
WORK PHONE:

PROJECT NO.: CP C-166
TRACT NO.: 1
CELL PHONE: 402-770-3348
E-mail: garykuck@windstream.net

DATE	TIME	PURPOSE/DISCUSSION
10/01/12	NA	Received file for review and acquisition.
10/01/12	NA	Mailed appointment letter.
03/04/13	11:05am	I stopped by the Kuck home and made contact with Mrs. Kuck. I advised her of the County's need for a permanent easement near NW 27 th St. and Rock Creek Rd. Mrs. Kuck gave me her husband's cell phone number and advised me to contact him.
03-08-13	8:20am	I called Mr. Kuck and scheduled an appointment for today on site at 10:00am.
03-08-13	NA	Mr. Kuck does not want to deal with this until the County is serious about building it the year he signs.
1-2-2014	3:15pm	I called Mr. Kuck and will meet him tomorrow on site to sign the easement.
1-7-14	10:10am	I called Gary to see about picking up the signed permanent easement. Gary told me his wife is very ill and he does not expect to have it signed before next week.
1-15-14	11:00am	I called and left a message asking for the signed easement or a call back at to when it may be available.
1-27-14	1:15pm	I called and left a message that I understand he and Doug Pillard had been in contact and a meeting was to happen soon. I advised Doug is anxious to have me obtain the signed easement so the County can proceed with the culver replacement.
2-11-14	10:15am	I called and asked Gary for the signed documents. I advised I am being pressed for completion of this matter. He advised he would try and get it done soon.
2-11-14	4:28pm	Gary called and left a message asking for a return call as he has some questions regarding the culvert easement.
2-12-14	8:04am	I returned Gary's call and left a message asking for a return call.
2-27-14	1:34pm	Called and left a message asking for a call back.
2-28-14	9:18am	Called and left a message asking for a decision on signing the culvert easement.
12/01/14		TT
12/17/14		GARY WANTED TO KNOW WHETHER THE CORP PERMIT WAS SECURED & WHETHER DRAINAGE ISSUES WERE RESOLVED ON GUY TRACT
		WILL TALK AFTER HOLIDAYS

Appt :



Douglas A. Pillard

From: Julie A. Okray
Sent: Monday, January 13, 2014 3:46 PM
To: Douglas A. Pillard
Subject: Engineers Phone Message 2.55
Attachments: Engineers Phone Message 2.55; Engineers Phone Message 2.55.xsn

URGENT		<input type="checkbox"/> Yes	<input type="checkbox"/> No
WHILE YOU WERE OUT			
To:	Doug Pillard		
Date & Time:	Date 1/13/2014	Time	3:30 PM
M:	Gary Jerry Kuck		
Of:			
Phone:			
Cell:			
<input type="checkbox"/> Telephoned <input type="checkbox"/> Came to see you <input type="checkbox"/> Wants to See You <input type="checkbox"/> Returned Your Call		<input type="checkbox"/> Please Call <input type="checkbox"/> Will Call Again <input type="checkbox"/> Rush <input type="checkbox"/> Special Attention	
Message: is out of town for a week & a half he will call you when he gets back.			
Message Taken By:	Julie Okray		

Lancaster County Engineers

1/27/14

Tried discussing on phone. Could not
 explain adequately, so we will
 meet on site soon. Kuck will
 call soon for date.

[Signature]

**LANCASTER COUNTY ENGINEERING DEPARTMENT
AGENT CALL REPORT**

OWNER: Kuck, Gary L. & Susan J.
ADDRESS: 692 W. Lakeshore Ct. Lincoln, NE 68528
HOME PHONE:
WORK PHONE:

PROJECT NO.: CP C-166
TRACT NO.: 1
CELL PHONE: 402-770-3348
E-mail:

CALL DATE	VISIT NO.	AMOUNT OFFERED	SALVAGE OFFERED	COUNTER OFFER	PERSONS PRESENT
08/19/15	NA	\$25,087.00	NA	NA	Gary L. Kuck Alex Olson

REPORT OF DISCUSSION:

I called Mr. Kuck to set a time to meet and go over the contracts for N 27th St. Mr. Kuck said he would not be available till next week, I offered to call him on Monday the 24th to set an appointment time. Mr. Kuck said that would be fine.

SIGNED: _____

Right-of-Way Agent

**LANCASTER COUNTY ENGINEERING DEPARTMENT
AGENT CALL REPORT**

OWNER: Kuck, Gary L. & Susan J.
ADDRESS: 692 W. Lakeshore Ct. Lincoln, NE 68528
HOME PHONE:
WORK PHONE:

PROJECT NO.: CP C-166
TRACT NO.: 1
CELL PHONE: 402-770-3348
E-mail:

CALL DATE	VISIT NO.	AMOUNT OFFERED	SALVAGE OFFERED	COUNTER OFFER	PERSONS PRESENT
08/25/15	NA	NA	NA	NA	Gary L. Kuck Alex Olson

REPORT OF DISCUSSION:

I called Mr. Kuck to set a time to meet and go over the contracts for N 27th St. Mr. Kuck said he would be available on the 26th at 1:00pm. We agreed to meet at his drive into his property.

SIGNED: _____


Right-of-Way Agent

LANCASTER COUNTY ENGINEERING DEPARTMENT

AGENT CALL REPORT

OWNER: Kuck, Gary L. & Susan J.
ADDRESS: 692 W. Lakeshore Ct. Lincoln, NE 68528
HOME PHONE:
WORK PHONE:

PROJECT NO.: CP C-166
TRACT NO.: 1
CELL PHONE: 402-770-3348
E-mail:

CALL DATE	VISIT NO.	AMOUNT OFFERED	SALVAGE OFFERED	COUNTER OFFER	PERSONS PRESENT
08/26/15	1	\$25,087.00	Yes	NA	Gary L. Kuck Alex Olson

REPORT OF DISCUSSION:

I met with Mr. Kuck, on site to go over the contracts for N 27th St.

I gave him the new contracts.

Mr. Kuck asked about the grading at his drive into the property. I tried to answer his questions but the drive was not shown on the drawings. I called Mike H. to see if he had the drive on any of his drawings, he did not. Mike H. called me back to inform me he did not think the drive in question was in the area of grading, using aerial overlays for existing drive placement. This is something I think should be located and placed on the drawing so Mr. Kuck can see if there is/not going to be any grading.

Mr. Kuck also questioned why we need to take 60' of Right-of-Way. I informed him due to the close proximity of the project in relation to the City of Lincoln, we buy 60' instead of 50'. I then gave him a few examples of other projects where we purchased 60' instead of 50'.

Mr. Kuck also questioned the removal of all the trees. He feels some of them don't need to go. "But they will be in your Right-of-Way, so you can do as you wish... Just feels like a waste," said Mr. Kuck.

The only comment Mr. Kuck made about the land value is that he "knows" what all the sales in the area were including what LES paid for their easements of Row-of-Way.

I asked Mr. Kuck if there was anything he did not agree with, he turned and said, "you want me to tell you now... I will look this over and call you."

I also told him we would figure out the drive issue and get back to him.

SIGNED: _____

Right-of-Way Agent

LANCASTER COUNTY ENGINEERING DEPARTMENT

AGENT CALL REPORT

OWNER: Kuck, Gary L. & Susan J.
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WORK PHONE:

PROJECT NO.: CP C-166
TRACT NO.: 1
CELL PHONE: 402-770-3348
E-mail:

CALL DATE	VISIT NO.	AMOUNT OFFERED	SALVAGE OFFERED	COUNTER OFFER	PERSONS PRESENT
08/27/15	NA	NA	NA	NA	Gary L. Kuck Alex Olson

REPORT OF DISCUSSION:

I called Mr. Kuck, to answer a few of his questions from the meeting on the 26th of August.

I informed Mr. Kuck the grading for the project will begin at about 175' north of his drive, so there will be no impact to said drive. Mr. Kuck was glad to hear there would be no impact to his drive.

I also let Mr. Kuck know the project is a go for the construction year 2016 not 2017 as I had told him the day before at our meeting.

Mr. Kuck again asked me why we are going to buy 60' instead of 50'. I again told him that we are within the area of Lincoln's 3 mile, that we buy 60' instead of 50'. Mr. Kuck then asked me if there was a statute that gives the County or the City of Lincoln the ability to do this. I said I do not know and would need to look into this.

I talked with Ken S. about this issue and he gave me several conditions where this can and does happen. I also spoke with Pam D. about this and she said there is a inter local agreement between the County and the City of Lincoln, and that Angela would be able to get a copy of it for me to get to Mr. Kuck.

SIGNED:



Right-of-Way Agent

**LANCASTER COUNTY ENGINEERING DEPARTMENT
AGENT CALL REPORT**

OWNER: Kuck, Gary L. & Susan J.
ADDRESS: 692 W. Lakeshore Ct. Lincoln, NE 68528
HOME PHONE:
WORK PHONE:

PROJECT NO.: CP C-166
TRACT NO.: 1
CELL PHONE: 402-770-3348
E-mail:

CALL DATE	VISIT NO.	AMOUNT OFFERED	SALVAGE OFFERED	COUNTER OFFER	PERSONS PRESENT
09/11/15	NA	NA	NA	NA	Gary L. Kuck Alex Olson

REPORT OF DISCUSSION:

I met with Mr. Kuck on site and gave him an aerial photo showing where the grading starts in relation to his field drive.

I also gave Mr. Kuck a copy of the Inter Local agreement between Lancaster County, and the City of Lincoln, explaining the 60' of Right-of-Way instead of the normal 50' of Right-of-Way.

I asked Mr. Kuck if he had any more questions, he said "no."

SIGNED: _____

Right-of-Way Agent

**LANCASTER COUNTY ENGINEERING DEPARTMENT
AGENT CALL REPORT**

OWNER: Kuck, Gary L. & Susan J.
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PROJECT NO.: CP C-166
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E-mail:

CALL DATE	VISIT NO.	AMOUNT OFFERED	SALVAGE OFFERED	COUNTER OFFER	PERSONS PRESENT
10/13/15	NA	NA	NA	NA	Gary L. Kuck Alex Olson

REPORT OF DISCUSSION:

I called Mr. Kuck to see if he has had a chance to look over the contracts, and if he had time to talk about it. Mr. Kuck said he was busy right at the moment and to call him back around 4:30pm.

I called Mr. Kuck back at 4:36pm, he did not answer his phone. I left him a message to call me back.

I did try to call him again before I left work at 4:52pm, again he did not answer.

SIGNED: _____

Right-of-Way Agent

**LANCASTER COUNTY ENGINEERING DEPARTMENT
AGENT CALL REPORT**

OWNER: Kuck, Gary L. & Susan J.
ADDRESS: 692 W. Lakeshore Ct. Lincoln, NE 68528
HOME PHONE:
WORK PHONE:

PROJECT NO.: CP C-166
TRACT NO.: 1
CELL PHONE: 402-770-3348
E-mail:

CALL DATE	VISIT NO.	AMOUNT OFFERED	SALVAGE OFFERED	COUNTER OFFER	PERSONS PRESENT
10/14/15	NA	NA	NA	NA	Gary L. Kuck, Pam Dingman, & Alex Olson

REPORT OF DISCUSSION:

Mr. Kuck called me back, and I informed him of the Last and Best letter we are ready to send. Mr. Kuck asked me what that meant, I told him we are getting ready for condemnation proceedings. He said that doesn't sound like fun.

Mr. Kuck asked if I could set a meeting time with one of the engineers, so we can go over the plans and get his questions answered and get this done.

I talked with Pam D. to get a time that would work with her, she said Monday the 19th of October would work. I called Mr. Kuck to see if it would work with him, he did not answer his cell phone. I did leave a message for him to call me back.

SIGNED: _____


Right-of-Way Agent

**LANCASTER COUNTY ENGINEERING DEPARTMENT
AGENT CALL REPORT**

OWNER: Kuck, Gary L. & Susan J.
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E-mail:

CALL DATE	VISIT NO.	AMOUNT OFFERED	SALVAGE OFFERED	COUNTER OFFER	PERSONS PRESENT
10/15/15	NA	NA	NA	NA	Gary L. Kuck, & Alex Olson

REPORT OF DISCUSSION:

I called and talked to Mr. Kuck about setting a meeting time. Mr. Kuck informed me has not had a chance to talk to his wife yet. I told him Monday the 19th will work for the engineers, but after that we will need to push it to the week of the 26th. Mr. Kuck said he would get with his wife and call me back.

SIGNED: _____

Right-of-Way Agent

**LANCASTER COUNTY ENGINEERING DEPARTMENT
AGENT CALL REPORT**

OWNER: Kuck, Gary L. & Susan J.
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HOME PHONE:
WORK PHONE:

PROJECT NO.: CP C-166
TRACT NO.: 1
CELL PHONE: 402-770-3348
E-mail:

CALL DATE	VISIT NO.	AMOUNT OFFERED	SALVAGE OFFERED	COUNTER OFFER	PERSONS PRESENT
10/29/15	NA	NA	NA	NA	Gary L. Kuck, & Alex Olson

REPORT OF DISCUSSION:

I called Mr. Kuck to see if I could set an appointment time, but he was not able to talk with me at the time and asked me to call him back.

SIGNED: _____

Right-of-Way Agent

**LANCASTER COUNTY ENGINEERING DEPARTMENT
AGENT CALL REPORT**

OWNER: Kuck, Gary L. & Susan J.
ADDRESS: 692 W. Lakeshore Ct. Lincoln, NE 68528
HOME PHONE:
WORK PHONE:

PROJECT NO.: CP C-166
TRACT NO.: 1
CELL PHONE: 402-770-3348
E-mail:

CALL DATE	VISIT NO.	AMOUNT OFFERED	SALVAGE OFFERED	COUNTER OFFER	PERSONS PRESENT
11/10/15	NA	NA	NA	NA	Gary L. Kuck, & Alex Olson

REPORT OF DISCUSSION:

I called Mr. Kuck to see if I could set an appointment time, but he did not answer his phone. I did leave him a message with the available times Pam D. had to meet with him, and to call me back.

SIGNED: _____


Right-of-Way Agent

**LANCASTER COUNTY ENGINEERING DEPARTMENT
AGENT CALL REPORT**

OWNER: Kuck, Gary L. & Susan J.
ADDRESS: 692 W. Lakeshore Ct. Lincoln, NE 68528
HOME PHONE:
WORK PHONE:

PROJECT NO.: CP C-166
TRACT NO.: 1
CELL PHONE: 402-770-3348
E-mail:

CALL DATE	VISIT NO.	AMOUNT OFFERED	SALVAGE OFFERED	COUNTER OFFER	PERSONS PRESENT
11/30/15	NA	NA	NA	NA	Gary L. Kuck, & Alex Olson

REPORT OF DISCUSSION:

Mr. Kuck called to cancel the 1:00pm appointment time for today, and ask the time be moved to Tuesday the first or Wednesday the second of December. After talking with those involved the meeting time was moved to 10:00am on the first of December at the Engineering office. I tried to call Mr. Kuck to let him know the new time, but he was not available at the time of my call. I did leave him a message with the new meeting time, and to call me back if he has any questions.

SIGNED:


Right-of-Way Agent

**LANCASTER COUNTY ENGINEERING DEPARTMENT
AGENT CALL REPORT**

OWNER: Kuck, Gary L. & Susan J.
ADDRESS: 692 W. Lakeshore Ct. Lincoln, NE 68528
HOME PHONE:
WORK PHONE:

PROJECT NO.: CP C-166
TRACT NO.: 1
CELL PHONE: 402-770-3348
E-mail:

CALL DATE	VISIT NO.	AMOUNT OFFERED	SALVAGE OFFERED	COUNTER OFFER	PERSONS PRESENT
12/09/15	2	\$15,487.00	Yes	No	Gary L. & Susan Kuck, Pam Dingman, Brendan Lilley, John Mahan, Jim Shotkoski, & Alex Olson

REPORT OF DISCUSSION:

We met with the Kucks at our office to go over the N 27th Street project. They raised several concerns, and questions about the project. After talking with Pam and Brendan it was decided a letter would be written to the Kuck's. I, with help from the others composed a letter to the Mr. & Mrs. Kuck attempting to help sooth their concerns and answer their questions. The letter was sent out the 26th of January.

SIGNED:


Right-of-Way Agent

**LANCASTER COUNTY ENGINEERING DEPARTMENT
AGENT CALL REPORT**

OWNER: Kuck, Gary L. & Susan J.
ADDRESS: 692 W. Lakeshore Ct. Lincoln, NE 68528
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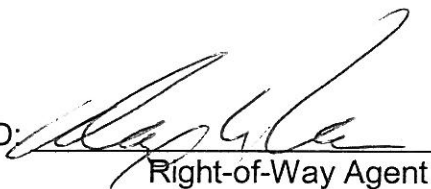
PROJECT NO.: CP C-166
TRACT NO.: 1
CELL PHONE: 402-770-3348
E-mail:

CALL DATE	VISIT NO.	AMOUNT OFFERED	SALVAGE OFFERED	COUNTER OFFER	PERSONS PRESENT
2/11/16	NA	NA	NA	NA	Gary L. Kuck, & Alex Olson

REPORT OF DISCUSSION:

I called Mr. Kuck to see if he had any questions about the letter I sent him on 1/26/16. Mr. Kuck was not available to take my call, I did leave him a voice mail to call me back at his convenience.

SIGNED: _____


Right-of-Way Agent

**LANCASTER COUNTY ENGINEERING DEPARTMENT
AGENT CALL REPORT**

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HOME PHONE:
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TRACT NO.: 1
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E-mail:

CALL DATE	VISIT NO.	AMOUNT OFFERED	SALVAGE OFFERED	COUNTER OFFER	PERSONS PRESENT
2/22/16	NA	NA	NA	NA	Gary L. Kuck, & Alex Olson

REPORT OF DISCUSSION:

Mr. Kuck called me to set an appointment at our office to go over the N 27th Street project, he also said his son Scott Kuck would be with them to go over culvert F-101 tract #2.

SIGNED: _____


Right-of-Way Agent

**LANCASTER COUNTY ENGINEERING DEPARTMENT
AGENT CALL REPORT**

OWNER: Kuck, Gary L. & Susan J.
ADDRESS: 692 W. Lakeshore Ct. Lincoln, NE 68528
HOME PHONE:
WORK PHONE:

PROJECT NO.: CP C-166
TRACT NO.: 1
CELL PHONE: 402-770-3348
E-mail:

CALL DATE	VISIT NO.	AMOUNT OFFERED	SALVAGE OFFERED	COUNTER OFFER	PERSONS PRESENT
2/22/16	NA	NA	NA	NA	Gary L. Kuck, & Alex Olson

REPORT OF DISCUSSION:

I called Mr. Kuck back to let him know the meeting time was set for 2pm on the 1st of March at our office.

SIGNED: _____

Right-of-Way Agent

LANCASTER COUNTY ENGINEERING DEPARTMENT
AGENT CALL REPORT
(John E. Mahan)

Mr. Scott Kuck believes the amount of land he is being asked to sell is excessive, he feels there is not sufficient justification to take an area of 400-feet in length. The dimensions of the taking are 400-feet in length by 17-feet deep this will create a 50-foot right-of-way as measured from the Section Line. Ms. Dingman responded to this assertion by asking the design engineer Brendan Lilley to review the required design standards against the current design to see if any modifications can be made to minimize the taking.

Ms. Dingman advised all present that once debris piles are removed the County will clean the ground and seed all areas damaged by the piles. She reiterated seeding is necessary to control weeds and maintain erosion integrity.

It was at this time the entire Kuck family brought up their contention that over the past 2 years many promises have been made to them but little to no action has resulted. They collectively agreed and stated that unless immediate action is forthcoming to rectify the issue of the brush piles any future agreement on their part is highly unlikely. Ms. Dingman responded by stating the piles will have to be removed by the 1st of April due to the Migratory Bird Treaty Act requirements regarding bird nesting. Mrs. Kuck asked if Ms. Dingman can assure them this work will be accomplished by April. Ms. Dingman launched into a litany of reasons why it may not be possible citing an unexpected blizzard or other serious weather conditions that may hamper initiation or completion of such a project. It appeared that Mrs. Kuck and her family was not impressed by Ms. Dingman's evasive attempts to placate them with an answer.

Scott Kuck brought up the issue of fencing, stating categorically he will not be rebuilding the fence destroyed by County cleaning crews last year. Mr. Kuck is insistent the County rebuild or provide funds for the rebuilding of his lost fencing.

Scott Kuck questioned the necessity of replacing this pipe as the new pipe will be of the same diameter but perhaps a bit longer than the existing pipe. Ms. Dingman responded the pipe is more than likely past its functional life span. As a matter of routine maintenance the pipe is due for replacement. I interjected this particular pipe was installed some 51 years ago in 1964 and by virtue of its age alone it needs replacing. Scott seemed to understand and accept this answer to his question.

SIGNED: _____

Right-of-Way Agent

LANCASTER COUNTY ENGINEERING DEPARTMENT
AGENT CALL REPORT
 (John E. Mahan)

OWNER: Kuck, Scott M.
ADDRESS: P.O. Box 337 Raymond, NE 68428
HOME PHONE: 402-783-2078
WORK PHONE: 402-441-4300

PROJECT NO.: CP F-101
TRACT NO.: 2
CELL PHONE: 402-430-9922
E-mail:

CALL DATE	VISIT NO.	INITIAL OFFER	FINAL OFFER	PERSONS PRESENT
3-1-16	2	\$1,505.00		Scott M. Kuck Gary Kuck Susan Kuck Pamela Dingman Brendan Lilley Jim Shotkoski Alex Olson John E. Mahan

REPORT OF DISCUSSION:

I sat in on a joint meeting with the County Engineer and several other engineering department members to hear the concerns of the Kuck family regarding two separate projects now under consideration. The first topic of discussion was the above listed culvert located 1,700-feet west of NW 12th St. and W Old Mill Rd.

Mr. Scott Kuck voiced several concerns he wants dealt with before he will consider signing a purchase agreement with this department. He advised us the culvert area under discussion is his home site and he is not happy with the condition of the area where the County has removed trees in the past. He stated several times this is his home and in the past few years he has been forced to look at this mess every day. He provided several photos for Ms. Dingman showing what appeared to be badly mauled trees with areas of debris scattered haphazardly. He advised us this is how the landscape was left last year after County crews "trimmed" and removed vegetation from the County right-of-way adjacent to his property.

He complained about several brush piles of trees and vegetation left in his ditch and along the right-of-way in the general area which are unsightly and creating problems associated with the brush piles. According to him there are 2 brush piles on NW 12th St., 22 piles along W Mill Rd. and 37 more piles in the general area. He asserts the bulk of these piles have been in existence for several years with no attempt to burn or remove them. He is concerned the brush piles attract unwanted animals and insects along with the problem of killing the grass underneath the piles thus promoting weed growth and soil erosion.

Mrs. Susan Kuck (Scott's Mother) stated directly to Ms. Dingman referring to how she had spoken to her in December of 2015 complaining about the brush piles and how nothing has been done since that conversation. Ms. Dingman did not directly respond to this statement but went on to question Scott about other, more trivial aspects of the brush piles.

**LANCASTER COUNTY ENGINEERING DEPARTMENT
AGENT CALL REPORT**

OWNER: Kuck, Gary L. & Susan J.
ADDRESS: 692 W. Lakeshore Ct. Lincoln, NE 68528
HOME PHONE:
WORK PHONE:

PROJECT NO.: CP C-166
TRACT NO.: 1
CELL PHONE: 402-770-3348
E-mail:

CALL DATE	VISIT NO.	AMOUNT OFFERED	SALVAGE OFFERED	COUNTER OFFER	PERSONS PRESENT
3/01/16	3	\$15,487.00	Yes	No	Gary L. & Susan Kuck, Scott Kuck (son), Pam Dingman, Brendan Lilley, John Mahan, Jim Shotkoski, & Alex Olson

REPORT OF DISCUSSION:

We all met again in our office to go over the n 27th Street project and to also look at Culvert F-101 for their son Scott.

The culvert was discussed first. See attached call report for that information.

Mr. & Mrs. Kuck again asked why we even need this project in the first place, and why we need to buy their land. Those questions were answered again by Pam and Brendan.

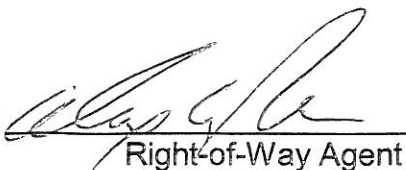
Mrs. Kuck also brought up there is wetlands on the north end of the property that need to be protected, she was told they are not in the scope of the project.

They brought up the trees and how they cannot be replaced for the amount of money we are giving them. I told them based on a Nebraska Supreme Court Case we pay only on the diminution of value.

The fence is now going to be placed in the construction contract. We will need to make specs and place them in the construction contract for the replacement of the fence. The fencing payment has been removed from the contract.

After the meeting Brendan and I were instructed to compose another letter to the Kucks.

SIGNED: _____


Right-of-Way Agent

**LANCASTER COUNTY ENGINEERING DEPARTMENT
AGENT CALL REPORT**

OWNER: Kuck, Gary L. & Susan J.
ADDRESS: 692 W. Lakeshore Ct. Lincoln, NE 68528
HOME PHONE:
WORK PHONE:

PROJECT NO.: C55-G-407(2)
TRACT NO.: 1
CELL PHONE: 402-770-3348
E-mail:

CALL DATE	VISIT NO.	AMOUNT OFFERED	SALVAGE OFFERED	COUNTER OFFER	PERSONS PRESENT
3/10/16	NA	NA	NA	NA	Pam Dingman & Alex Olson

REPORT OF DISCUSSION:

Pam instructed me to get a packet together for David Derbin containing but not limited to contracts, letters, call reports, and all contact logs for Tract #1, project # C55-G-407(2), Mr. & Mrs. Kuck.

SIGNED: _____

Right-of-Way Agent

LANCASTER COUNTY ENGINEERING DEPARTMENT
AGENT CALL REPORT

OWNER: Kuck, Gary L. & Susan J.
ADDRESS: 692 W. Lakeshore Ct. Lincoln, NE 68528
HOME PHONE:
WORK PHONE:

PROJECT NO.: C55-G-407(2)
TRACT NO.: 1
CELL PHONE: 402-770-3348
E-mail:

CALL DATE	VISIT NO.	AMOUNT OFFERED	SALVAGE OFFERED	COUNTER OFFER	PERSONS PRESENT
4/05/16	NA	NA	NA	NA	Gary Kuck & Alex Olson

REPORT OF DISCUSSION:

I Called Mr. Kuck to talk with him about the N 27th Street project, but he was not available to take my call. I did leave him a message to call me back.

SIGNED:


Right-of-Way Agent

Rock Creek

NW

2001 W. Rock Rd
500

January 26, 2016

Gary L. & Susan J. Kuck
692 W. Lakeshore Ct.
Lincoln, NE 68528

RE: Project No. C55-G-407(2)
Tract No. 1

Dear Gary and Susan:

Thank you for taking time to meet with us on December 9th to discuss your issues and concerns with the N 27th Street grading project. The main point of this letter is to inform you of how we will to the best of our ability address, and then try to remedy your issues and concerns you brought to our attention.

Our main goal here at the Lancaster County Engineering Department is the safest travel possible for our citizens and visitors. Increasing traffic counts, lack of safe sight distance at intersections and driveways, or just the general topography of the roadway, will make a grading project a necessity in providing safe travel for local citizens and visitors. A draw-back or side effect of a grading project, as you well know, can be the alteration of a property frontage and how it looks. By addressing your issues and concerns we hope to help alleviate those concerns and thus lessen the impact the project might have on your property.

Susan, I know you have several environmental concerns with the proposed grading project. There are multiple groups and agencies we are working with to make sure we stay within all the Federal, State, and Local environmental guidelines. There is also an overall environmental assessment that was done by the U.S. Fish & Wildlife Service, Denver CO., in part due to the "critical habitat" for the Tiger Beetle. We would be happy to provide you with a link to that document for your review.

Additionally, there are several options we are looking into to lessen the environmental impacts of the project. We are planning on reseeding the ditches along your property, the property to the north, and also the property to the east with a high diversity seed mix, and broadcast planting adjacent to the disturbed natural areas inclusive with a drill seeder and a cover crop of oats/wheat as identified in the COE

(Corps of Engineers) seed mix provided to the county. We are also looking into expanding the use of erosion control matting, and incorporating the use of biodegradable slope protection and ditch checks. The erosion control matting will also help with the establishment of the seed mix.

The two of you brought up some other concerns you have with the project. Lancaster County Engineering will strictly enforce erosion control standards in this highly sensitive area. In addition, Lancaster County will control the amount of debris that accumulates on the grading project. This includes but is not limited to: trees, shrubs and other organic material, concrete, stone, and metal materials.

Regarding the issues you are having with trying to locate a fencing contractor to remove and replace your fencing, we will remove the payment from your contract and place the fencing in the contract for the grading project.

We look forward to receiving your call and meeting with you again in the near future.

Sincerely,

A handwritten signature in black ink, appearing to read 'Alex G. Olson', written in a cursive style.

Alex G. Olson
Right-of-Way Agent

March 31, 2016

Gary L. & Susan J. Kuck
692 W. Lakeshore Ct.
Lincoln, NE 68528

RE: Project No. C55-G-407(2)
Tract No. 1

Dear Gary and Susan:

Thank you for taking time to meet with us on March 1st to discuss your issues and concerns with the N 27th Street grading project. The main point of this letter is to inform you of how we will to the best of our ability address, and then try to remedy your issues and concerns that you brought to our attention:

1. Fencing: The fence replacement will no longer be a contract item between you and the County. Your fence will be replaced by the Contractor on the project, yet to be named. The fence specification sheet (attached) is to be pre-viewed by land owner.
2. 404 Permit: Please see attached Corps of Engineers permit approval.
3. Wetlands Mitigation: Wetlands to be added to the City of Lincoln Wetlands Bank.
4. Pine Trees: The County is paying diminution of value based off the appraisal.
5. Southerly (previously purchased) right-of-way: See attached Deeds and color coded drawing. Purchases were for a bank stabilization project.

We look forward to receiving your call and meeting with you again in the near future.

Sincerely,

Alex G. Olson
Right-of-Way Agent

LANCASTER

COUNTY

ENGINEERING

Pamela L. Dingman, P.E.

County Engineer

DEPARTMENT

Kenneth D. Schroeder, R.L.S.

Deputy County Surveyor

COPY

September 13, 2016

CERTIFIED MAIL

Kuck Investment Partners, LP
 692 W. Lakeshore Dr.
 Lincoln, NE. 68528

RE: Project No.: C-55-G-407 (2)
 Tract No.: 1

Dear Mr. & Mrs. Kuck:

Reference is made to our past offer of compensation for right-of-way required by Lancaster County on the above identified project. Your affected real estate is legally described as:

A part of Lot 20, Irregular Tracts, located in the SE $\frac{1}{4}$, of Section 24, Township 11 North, Range 6 East of the 6th Principal Meridian, Lancaster County, Nebraska, more particularly described as follows:

Beginning at the northeast corner of said SE $\frac{1}{4}$; thence North 89 Degrees, 27 Minutes, 48 Seconds West, with the north line of said SE $\frac{1}{4}$, a distance of 60.00 feet to a point; thence South 00 Degrees, 20 Minutes, 15 Seconds West, 60.00 feet west of and parallel with the east line of said SE $\frac{1}{4}$, a distance of 1398.53 feet to a point of intersection with the right-of-way as conveyed and recorded in Instrument No. 92-9059, as filed with the Lancaster County Register of Deeds Office; thence South 89 Degrees, 39 Minutes, 45 Seconds East, with said existing right-of-way line, perpendicular to the east line of said SE $\frac{1}{4}$, a distance of 27.00 feet to a point, said point being located 33.00 feet west of as measured perpendicular to the east line of said SE $\frac{1}{4}$; thence South 00 Degrees, 20 Minutes, 15 Seconds West, 33.00 feet west of and parallel with the east line of said SE $\frac{1}{4}$, a distance of 1265.59 feet to a point of intersection with the south line of said SE $\frac{1}{4}$; thence South 89 Degrees, 14 Minutes, 09 Seconds East, with the south line of said SE $\frac{1}{4}$, a distance of 33.00 feet to a point of intersection with the east line of said SE $\frac{1}{4}$; thence North 00 Degrees, 20 Minutes, 15 Seconds East, with the east line of said SE $\frac{1}{4}$, a distance of 2664.16 feet to the point of beginning.

Containing 2.89 acres, more or less, of which 2.02 acres, more or less, is existing county road right of way, making a net additional right of way of 0.87 acres, more or less.

Lancaster County as a result of negotiations, wishes to inform the Owner that fencing costs are not being paid to the Owner as part of this Last and Best Letter and the removal and replacement of existing fence will be treated as part of construction and not as a damage item to the Owner.

Our last and best offer of compensation for the right-of-way to be acquired is as follows:

Fee Simple

0.87 acres @ \$ 6,000.00/Acre \$ 5,220.00

Statutory Easement

2.02 acres @ \$ 6,000.00/Acre x 10% \$ 1,212.00

Diminution of Value (Tree Loss) \$ 9,000.00

Title Extension Fee \$ 55.00

TOTAL COMPENSATION \$ 15,487.00

As of this date, our negotiator has been unable to reach a mutually agreeable settlement. We would appreciate an acceptance of our offer.

However, if you do not make an attempt to contact this office in the near future towards consummating this transaction, we will assume this acquisition will have to be made through the process of Eminent Domain.

Please be assured our only purpose in initiating Eminent Domain proceedings would be to assure ourselves the right-of-way will be available to meet our construction schedule.

In the event it becomes necessary to initiate Eminent Domain proceedings, consummation of the transaction will still be possible any time prior to the commencement of the hearing process.

A more comprehensive explanation of the Eminent Domain procedure is enclosed for your information. If you have any questions, please feel free to contact this office at 402-441-7681 Monday through Friday between the hours of 8:00am and 4:30pm.

Sincerely,



Pamela L. Dingman, P.E.
Lancaster County Engineer
Encl.

EMINENT DOMAIN PROCEDURE

The purpose of this statement is to generally outline for the property owner the steps that are taken to acquire property by Eminent Domain. This statement should not be considered as a complete statement of all the laws and procedures governing Eminent Domain.

When agreement with the landowner cannot be reached, appropriate documents instituting Eminent Domain proceedings are filed by Lancaster County with the County Judge. The County Judge then appoints three local property owners as appraisers who are familiar with local real property values. After proper notification to the landowner of the time and place of hearing, the appointed Board of Appraisers view the property and listen to statements of the landowner or his representatives as to their opinion of land value and damages, and to statements of Lancaster County's representatives. The appointed Board of Appraisers then files a formal report of their findings of value with the County Judge.

While the landowner is not required to attend the hearing, it is encouraged they do so. The landowner may elect to present his own statement to the Board of Appraisers, or he may wish to retain an attorney to represent him. Unless the landowner elects to retain an attorney, the above-described hearing is conducted at no expense to the landowner.

If either the landowner or the County is not satisfied with the report of the appraisers appointed by the County Judge, either may appeal to the District Court for a determination of value by a jury. In the event of such an appeal by either party, it is the usual practice of the landowner to retain an attorney to represent him for the jury trial in District Court.

The amount of the award entered by the appraisers is deposited with the County Judge. If neither party appeals to the District Court, the money is available to the landowner after thirty (30) days from the filing of the award by the appraisers. The landowner should make inquiry of the County Judge as to when the award was filed.

If either party appeals the award of the appraisers, the landowner may, by stipulating with Lancaster County, withdraw one hundred percent (100%) of the amount offered by the County before the County shall take physical possession of the property.

It is pointed out that prior to the hearing date, the landowner may accept the County's offer, and the Eminent Domain proceedings will be dismissed by the County.